

# SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Garcia Analyst: Marion Mann DeJong Bill Number: AB 363

Related Bills: See Prior Analysis Telephone: 845-6979 Amended Date: 06/18/2003

Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Employer Provided Health Coverage Credit/Farmworkers

- ☒ DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as amended May 7, 2003.
- ☐ AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.
- ☐ AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended \_\_\_\_\_.
- ☒ FURTHER AMENDMENTS NECESSARY.
- ☐ DEPARTMENT POSITION CHANGED TO \_\_\_\_\_.
- ☒ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED May 7, 2003, STILL APPLIES.
- ☐ OTHER - See comments below.

## SUMMARY

This bill would create an allocated credit for employers that provide health care coverage for their agricultural employees and those employees' dependents.

## SUMMARY OF AMENDMENTS

The June 18, 2003, amendments made the following changes:

- Changed the allocation of the income tax credit from a taxable year to calendar year basis, consistent with the author's original intent.
- Made department recommended technical changes.

These amendments resolved one of the "Implementation Considerations" and all the "Technical Considerations" identified in the department's analysis of the bill as amended May 7, 2003. Except for the "This Bill," "Implementation Considerations," and "Technical Considerations" discussions, the department's analysis of the bill as amended May 1, 2003, still applies. New "This Bill," "Implementation Considerations," and "Technical Considerations" discussions are provided below. The Board position remains pending.

## Summary of Suggested Amendments

Amendments are needed to change the allocation method to reflect the author's intent. See "Technical Considerations" below.

Board Position:			Legislative Director	Date
<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP	Brian Putler	07/15/03
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR		
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input checked="" type="checkbox"/> PENDING		

THIS BILL

This bill would create an allocated credit for certain farm worker employers. The aggregate amount of tax credits available for 2004 would be \$80 million. This amount would be increased annually for inflation by the change in the California Consumer Price Index.<sup>1</sup>

To be eligible for the credit, the taxpayer must either employ agricultural employees directly or be a labor contractor that employs agricultural employees for use by farmers and:

- Provides those employees and their dependents with health care coverage and pays at least 80% of the cost of that coverage.
- Applies to the Employment Development Department (EDD) for the credit by January 31 following the end of the calendar year.

The provided health care coverage must be equivalent to either of the following:

- A health care service plan under the Knox-Keene Health Care Service Plan Act of 1975.
- A plan that would qualify under the Employee Retirement Income Security Act of 1974 and provides substantially the same minimum benefits as required under the Knox-Keene Health Care Service Plan Act of 1975.

EDD would do all of the following:

- Determine the amount of allocated credit for each taxpayer that applied by multiplying the aggregate credit amount (\$80 million for 2004) by a ratio of the amount the taxpayer paid for health care coverage for agricultural employees and their dependents to the total amount all taxpayers that applied for the credit paid for health care coverage.<sup>2</sup>
- Provide written notification of the credit amount to each taxpayer by February 28<sup>th</sup> of each calendar year.
- Provide an annual list to the Franchise Tax Board (FTB), preferably on a computer readable form.
- Notify all known employers of agricultural employees regarding the availability of the credit.
- Send each known employer of agricultural employees an application to participate in the credit allocation.
- Promulgate rules or regulations as deemed necessary to implement its duties under this bill.

Unused credit amounts could be carried forward for six years. Fraudulent credit claims would be punishable by a criminal penalty of up to one year in jail and a fine of up to \$60,000.

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<sup>1</sup> The June 18, 2003, amendments inadvertently picked up language from AB 923 (2003, Firebaugh, Chavez, & Wesson) that allocates the credit based on amounts saved by repealing certain sales tax exemptions plus EDD's costs to administer the credit. According to the author's staff, the bill is intended to retain the sales and use tax exemptions and instead allocate \$80 million.

<sup>2</sup> Again, this reflects the author's intent of allocating \$80 million.

### IMPLEMENTATION CONSIDERATIONS

Since EDD would allocate the credit among taxpayers, implementation of the credit would not significantly impact the department. Implementing this bill would require some changes to existing tax forms and instructions and information systems, which could be accomplished during the normal annual update. However department staff has identified the following concerns:

- The bill does not provide an appropriation for the amount to be allocated.
- Department staff has identified concerns regarding the criminal penalty for fraudulent credit claims. Since this penalty is based upon the criminal penalty for tax evasion administered by FTB, it appears that FTB is to assess the penalty. However, EDD would have the information required for determining whether a penalty is warranted. Amendments are needed to clarify how the penalty is to be implemented and which department is responsible for assessing the penalty and resolving any disputes arising from its assessment.

### TECHNICAL CONSIDERATIONS

Amendments 1 and 2 would delete the language inadvertently picked up from AB 923 (2003, Firebaugh, Chavez, & Wesson) and reinsert the \$80 million allocation from the prior version of the bill.

### **LEGISLATIVE STAFF CONTACT**

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FRANCHISE TAX BOARD'S  
PROPOSED AMENDMENTS TO AB 363  
As Amended June 18, 2003

AMENDMENT 1

On page 4, strikeout lines 10 through 13, inclusive, and insert:  
equal to eighty million dollars (\$80,000,000), increased annually to reflect  
increases in the California Consumer Price Index.

AMENDMENT 1

On page 7, strikeout lines 19 through 22, inclusive, and insert:  
equal to eighty million dollars (\$80,000,000), increased annually to reflect  
increases in the California Consumer Price Index.